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Amendment

REMARKS

Entry of the foregoing amendments is respectfully requested. Claim 13 has been amended. New claims 21-23 have been added. Claims 13-23 are currently pending in the application. Favorable reconsideration and allowance of this application is respectfully requested in light of the foregoing amendments and the remarks that follow.

Rejections Based On the Prior Art

1. Rejections of Claims 13-20 Under 35 U.S.C. §102(e)

In the Office Action the Examiner has finally rejected claims 13-20 under 35 U.S.C. §102(e) as being anticipated by Allison et al. U.S. Patent No. 6,478,830 (the '830 patent).

Applicant respectfully traverses the Examiner's rejections to claims 13-20 based on the '830 patent. More specifically, with this response applicant has amended claim 13 to specify that the spray product is capable of forming fine droplets when dispensed by a spray mechanism. This amendment to claim 13 is not new matter as the subject matter of the amendment can be found in the application on page 4, lines 24-28, page 7, line 1, and page 7, lines 11-13. Further, upon reviewing the definition of the noun "mist" as recited on the website www.dictionary.com, "mist" is defined as:

3. Fine drops of a liquid, such as water, perfume, or medication sprayed into the air.

Thus, the disclosure in the specification that the distillate product of the present invention can be dispensed as a fine mist illustrates that the distillate product is dispensed as fine droplets of the product when dispensed by a spraying mechanism. Further, the limitation added in

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amended claim 13 requiring that the distillate product be dispensed as fine droplets from a spraying mechanism constitutes a material limitation to the distillate product covered by claim 13 and should be considered by the Examiner with reference any prior art references cited by the Examiner.

In contrast, the '830 patent, while disclosing a composition including a hydrocarbon oil, at least one copolymer, and at least one derivative of an N-acyl amino acid, does not disclose that the composition can be formed and dispensed utilizing a spray mechanism in the form of fine droplets of the composition as required by claim 13. Further, while applicant understands the Examiner's statement in the Office Action that the term "sprayable" implies that the compositions referred to are in a liquid form and are capable of flowing or being forced through a small aperture, and therefore being sprayed, this definition does not encompass the ability of a composition to form fine droplets when dispensed by a spraying mechanism as recited in claim 13.

Therefore, in applicant's opinion the subject matter of amended claim 13 is neither shown or described in the '830 patent. As a result, applicant believes that claim 13, as well as claims 14-20 which depend from claim 13, are allowable and respectfully requests that the Examiner withdraw the rejections to claims 13-20.

2. Rejections of Claims 13-20 Under 35 U.S.C. §102(b)

In the Office Action the Examiner has finally rejected claims 13-20 under 35 U.S.C. §102(b) as being anticipated by Saito et al. U.S. Patent 3,969,087 (the '087 patent).

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Applicant respectfully traverses the Examiner's rejections to claims 13-20 based on the '087 patent. More specifically, as discussed previously, applicant has amended claim 13 to specify that the product forms fine droplets when dispensed by a spraying mechanism.

In contrast, similarly to the discussion regarding the '830 patent, the '087 patent discloses gels formed of non-polar liquids which include N-acyl amino acids and derivatives thereof as gelling agents in order to gel the non-polar liquids to increase the ease of handling such liquids. The disclosure and teaching of gelling the non-polar liquids in the '087 patent does not include the composition of claim 13 in which the combination of the petroleum distillate and the shear-thinning thickener results in a composition that can be dispensed as fine droplets of the product by a spray mechanism.

Therefore, also similarly to the discussion regarding the '830 patent, in applicant's opinion the subject matter of amended claim 13 is neither shown or described by the '087 patent. Therefore, applicant believes that claim 13, and claims 14-20 which depend from claim 13, are allowable and respectfully request that the Examiner withdraw the rejections to claims 13-20.

3. New Claim 21

With this response, applicant has added new claim 21 that depends from claim 13 and specifies that the thickener comprises from about 2 percent to about 30 percent of a triblock copolymer and from about 70 percent to about 98 percent of a hydrocarbon oil. In addition to applicant's opinion that claim 21 is allowable based on its dependency from claim 13, which applicant also believes to be allowable, applicant believes the subject matter of claim 21 is not disclosed in the '830 patent or the '087 patent.

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More specifically, the '830 patent discloses a composition which includes a hydrocarbon oil, at least one copolymer, and at least one derivative of an N-acyl amino acid. Thus, the '830 patent discloses the combination of the copolymer and the N-acyl amino acid in the composition, which as disclosed in the specification on page 5, line 25-page 6, line 8 and in claim 14, are recited only as alternative thickeners to be used in place of each other, as opposed to inconjunction with one another. Thus, the '830 patent does not anticipate the subject matter of claim 21 in applicant's opinion, such that claim 21 is allowable over the '830 patent.

Furthermore, with reference to the '087 patent, this patent discloses only the use of N-acyl amino acid or a derivative thereof as a gelling agent. There is no mention of a thickener comprising the combination of a triblock copolymer and a hydrocarbon oil. Thus, for this reason, applicant also believes that the subject matter of claim 21 is not disclosed in the '087 patent, such that claim 21 is allowable in view of the '087 patent

4. New Claim 22.

New claim 22 added with this response depends from independent claim 13 and further specifies that the thickener comprises N-lauroyl glutamic acid di-n-butylamide.

Similarly to the arguments regarding the allowability of claim 21, and due to the dependency of claim 22 from claim 13, applicant also believes that claim 22 is allowable over the '830 patent, because the '830 patent discloses a hydrocarbon oil, a copolymer and a derivative of an N-acyl amino acid for use in combination with one another as opposed to separately from one another as alternative thickening agents. Thus, the subject matter of claim

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22 is not shown or described in the '830 patent such that applicant believes claim 22 to be allowable over the '830 patent.

With regard to the '087 patent, because claim 22 depends from amended independent claim 13, which applicant believes is allowable over the '087 patent, applicant also believes claim 22 is allowable over the '087 patent as well.

5. New Claim 23

Claim 23 is a new independent claim which recites a petroleum distillate product including a petroleum distillate having a viscosity of less than about 130 SUS at 100° F and a shear-thinning thixotropic thickener which enables the product to form a mist when dispensed by a spray mechanism.

Applicant believes that claim 23 is allowable over the '830 patent and the '087 patent for the reasons stated previously with regard to claim 13. Furthermore, neither the '830 patent or the '087 patent disclose the selection of a petroleum distillate to be utilized in forming the product that has a viscosity of less than about 130 SUS at 100° F. As stated on page 5, lines 14-18 of the specification, this is the range of viscosities covering the oils commonly used in household products for which the thickener compositions disclosed in the application are specifically selected in order to form the claimed petroleum distillate product.

Therefore, applicant believes that the subject matter of claim 23 is neither shown or described in the '830 patent nor the '087 patent, such that claim 23 in applicant's opinion is allowable.

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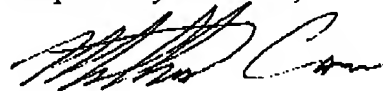
CONCLUSION

It is submitted that claims 13-23 are compliance with 35 U.S. C. §102 and each define patentable subject matter. A Notice of Allowance is therefore respectfully requested.

No fee is believed to be payable with this communication. Thus, should the Examiner consider any other fees to be payable in conjunction with this or any future communication, the director is authorized to charge any fee or credit any overpayment to Deposit Account No. 50-1170.

The Examiner is invited to contact the undersigned by telephone if it would help expedite the prosecution and allowance of this application.

Respectively submitted,



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Dated: 3/4/05

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